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# REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL

Address to:  
Commissioner for Patents  
Box RCE  
Washington, DC 20231

Application Number	09/928,198
Filing Date	8/10/2001
First Named Inventor	James A. Hoffmann, et al
Art Unit	1647
Examiner Name	Regina M. DeBerry
Attorney Docket Number	X-12383N

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

## 1. Submission required under 37 CFR 1.114

- a. ☐ Previously submitted
- i. ☐ Consider the amendment(s)/reply under 37 CFR 1.116 previously filed on \_\_\_\_\_  
(Any unentered amendment(s) referred to above will be entered).
- ii. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_
- iii. ☐ Other \_\_\_\_\_
- b. ☒ Enclosed
- i. ☒ Amendment/Reply
- ii. ☐ Affidavit(s)/Declaration(s)
- iii. ☐ Information Disclosure Statement (IDS)
- iv. ☐ Other \_\_\_\_\_

## 2. Miscellaneous

- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
- b. ☐ Other \_\_\_\_\_

## 3. Fees

 The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

- a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 05-0840
- i. ☒ RCE fee required under 37 CFR 1.17(e)
- ii. ☒ Extension of time fee (37 CFR 1.136 and 1.17)
- iii. ☐ Other (RCE \$750.00; 3 month extension \$930.00)
- b. ☐ Check in the amount of \$ \_\_\_\_\_ enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print I/Type)	Paula K. Davis	Registration No. (Attorney/Agent)	47,517
Signature	Paula K. Davis	Date	February 18, 2003

## CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner For Patents, Box RCE, Washington, DC 20231, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Name (Print/Type)	James J. Kelley	Date	2/18/03
Signature	James J. Kelley		

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND Fees and Completed Forms to the following address: Assistant Commissioner for Patents, Box RCE, Washington, DC 20231.

02/24/2003 AWONDAF1 00000098 050840 09928198

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FEB 25 2003

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Please type a plus sign (+) in this box ☐

PTO/SB/17 (12/97)

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FEB 21 2003

# FREE TRANSMITTAL

Note: Effective November 10, 1998.

Patent fees are subject to annual revision.

Amount of Payment (\$436.00)

## METHOD OF PAYMENT (check one)

1. ☒ The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:
- Deposit Account Number: 05-0840
- Deposit Account Name: Eli Lilly and Company
- ☒ Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17 ☐ Charge the Issue Fee Set in 37 CFR 1.18 at the Mailing of the Notice of Allowance
2. ☐ Payment Enclosed:
- ☐ Check ☐ Money Order ☐ Other

## FEE CALCULATION

### 1. FILING FEE

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid
101	740	201	370	Utility filing fee	
106	330	206	165	Design filing fee	
107	510	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filing fee	

SUBTOTAL (1) (\$)

### 2. CLAIMS

Total Claims	Extr a	Fee from below	Fee Paid
24	-20**	4 X 18	= 72
4	-3**	1 X 84	= 84
Multiple Dependent Claims (first time)			

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description
103	18	203	9	Claims in excess of 20
102	84	202	42	Independent claims in excess of 3
104	280	204	140	Multiple dependent claim
109	84	209	42	Reissue independent claims over original patent
110	18	210	9	Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$156.00)

\*\*or number previously paid, if greater; For Reissues, see above

## Complete if Known

Application Number	09/928,198
Filing Date	8/10/2001
First Named Inventor	Hoffmann, et al.
Group Art Unit	1647
Examiner Name	Regina M. DeBerry
Attorney Docket Number	X-12383N

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid
105	130	205	65	Surcharge-late filing fee or oath	
127	50	227	25	Surcharge-late provisional filing fee or cover sheet.	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive-unavoidable	
141	1,280	241	640	Petition to revive-unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design Issue Fee	
144	620	244	310	Plant Issue Fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Petitions related to provisional applications	
126	180	126	180	Submission of Information Disclosure Stmt.	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	740	246	370	Filing a submission after final rejection (37 CFR 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	

Other fee (specify) Terminal Disclaimer 1.321

Other fee (specify)

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$)

## SUBMITTED BY

Typed Name: Paula K. Davis  
Signature: Paula K. Davis

## Complete (if applicable)

Reg. Number: 47,517  
Date: Feb 18, 2003

## CERTIFICATE OF MAILING

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ELI LILLY AND COMPANY

By

Date

2/18/03

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## Instruction Sheet for RCEs

(not to be submitted to the USPTO)

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### NOTES:

An RCE is not a new application, and filing an RCE will not result in an application being accorded a new filing date.

#### **Filing Qualifications:**

The application must be a utility or plant application filed on or after June 8, 1995. The application cannot be a provisional application, a utility or plant application filed before June 8, 1995, a design application, or a patent under reexamination. See 37 CFR 1.114(e).

#### **Filing Requirements:**

***Prosecution in the application must be closed.*** Prosecution is closed if the application is under appeal, or the last Office action is a final action, a notice of allowance, or an action that otherwise closes prosecution in the application (e.g., an Office action under *Ex parte Quayle*). See 37 CFR 1.114(b).

***A submission and a fee are required at the time the RCE is filed.*** If reply to an Office action under 35 U.S.C. 132 is outstanding (e.g., the application is under final rejection), the submission must meet the reply requirements of 37 CFR 1.111. If there is no outstanding Office action, the submission can be an information disclosure statement, an amendment, new arguments, or new evidence. See 37 CFR 1.114(c). The submission may be a previously filed amendment (e.g., an amendment after final rejection).

### WARNINGS:

#### **Request for Suspension of Action:**

All RCE filing requirements must be met before suspension of action is granted. A request for a suspension of action under 37 CFR 1.103(c) does not satisfy the submission requirement and does not permit the filing of the required submission to be suspended.

#### **Improper RCE will NOT toll Any Time Period:**

***Before Appeal*** - If the RCE is improper (e.g., prosecution in the application is not closed or the submission or fee has not been filed) and the application is not under appeal, the time period set forth in the last Office action will continue to run and the application will be abandoned after the statutory time period has expired if a reply to the Office action is not timely filed. No additional time will be given to correct the improper RCE.

***Under Appeal*** - If the RCE is improper (e.g., the submission or the fee has not been filed) and the application is under appeal, the improper RCE is effective to withdraw the appeal. Withdrawal of the appeal results in the allowance or abandonment of the application depending on the status of the claims. If there are no allowed claims, the application is abandoned. If there is at least one allowed claim, the application will be passed to issue on the allowed claim(s). See MPEP 1215.01.

See MPEP 706.07(h) for further information on the RCE practice.



CERTIFICATE OF MAILING

hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Arlington, VA 22202, on the date appearing below.  
ELI LILLY AND COMPANY

By

*James Kelly*

Date

*2/18/03*

TECH CENTER 1600/2900

FEB 25 2003

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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	James A. Hoffmann & Jirong Lu	)	
Serial No.	:	09/928,198	)	
Filed	:	August 10, 2001	)	Group Art Unit:
			)	1646
For	:	FSH Formulation	)	Examiner:
			)	R. DeBerry
Docket No.	:	X-12383N	)	

PRELIMINARY AMENDMENT

Assistant Commissioner for Patents

Arlington, VA 22202

Sir:

Applicants are herewith filing a Request for Continued Examination under 37 C.F.R. § 1.114 of US Serial No. 09/928,198. This request and the attached response are made on February 18, 2003, in response to the Office Action dated August 16, 2002, Paper No. 9. Please note that since the six-month date, February 16th, fell on Sunday, and Monday, February 17th, was a Federal holiday (Washington's Birthday), this response is sent on the next business day, in accordance with 35 U.S.C. § 21.

Also enclosed is a petition for a three-month extension of time under 37 C.F.R. § 1.136. The Applicants authorize the Office to charge the necessary fee for an extension of time to Deposit Account No. 05-0840 in the name of Eli Lilly and Company.

Please amend this application as follows:

02/24/2003 AWONDAF1 00000098 050840 09928198

02 FC:1201 84.00 CH  
03 FC:1202 72.00 CH

In the Claims

02/24/2003 AWONDAF1 00000098 050840 09928198

04 FC:1253 930.00 CH

Cancel claims 92-103, inclusive.